IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

WP(C).No. 5935 of 2007(S)

AGAINST THE ORDER DATED 09/01/2007 IN IA.1187/2006 IN OP.1231/2004 of FAMILY COURT,THRISSUR

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PETITIONER: RESPONDENT

RAJAN, S/O.VADOOKKARAVEETTIL KUTTAN,
AGED 50 YEARS, EDAKKUNNY VILLAGE AND DESOM,
THRISSUR TALUK, THRISSUR DISTRICT.

BY ADV. SRI.K.A.SATHEESA BABU

RESPONDENTS: PETITIONER

SANTHA RAJAN, D/O.MADAMBI RAMAN,
AGED 45 YEARS, EDAKKUNNY VILLAGE,
THAIKKATTUSSERY DESOM, THRISSUR TALUK,
THRISSUR DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & S.SIRI JAGAN, JJ.

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W.P(C).5935 of 2007

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Dated this the 22nd day of February, 2007

J U D G M E N T

Raman, J.:

This writ petition is filed challenging the order of the Family Court, Thrissur, in I.A.No.1187/2006 in O.P.No.1231/2004, which is a petition filed by the petitioner herein, for setting aside the ex-parte order. The same was allowed on payment of Rs.5000/- towards arrears of maintenance. According to the petitioner, the original petition itself is for maintenance and as such, the court below should not have awarded an amount of Rs.5000/- towards arrears of maintenance. Further, according to him, the amount as ordered is also excessive.

2. The ex-parte order was set aside in favour of the petitioner. The court below only awarded a reasonable amount towards cost, but instead of

stating that it as cost, the court below has stated the same be paid towards arrears of maintenance, which is actually an order beneficial to the petitioner because in case ultimately, an order of maintenance is to be passed, certainly, this Rs.5000/- now paid will go to the credit in favour of the petitioner and in case the maintenance claim is dismissed, the same will be treated as cost. We do not find any justification for interfering with the order of the court below. Accordingly, the writ petition is dismissed.

Sd/-
P.R.RAMAN, JUDGE

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.